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EXAMINER				
NGUYEN, TOAN D				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/567,677

**Applicant(s)**

LITWIN, LOUIS ROBERT

**Examiner**

TOAN D. NGUYEN

**Art Unit**

2416

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 June 2009.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-20 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 09 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments filed 06/09/09 have been fully considered but they are not persuasive.

The applicant argues with respect to claims 1, 7 and 13 on page 6, fourth paragraph that Gray do not involve the location of a wireless local are network WLAN, but rather involve the location of the WAN user, and the applicant further argues that the limitations recited in claims 1, 7 and 13 relate to a request for a location of a wireless local area network (WLAN), and not for the location of the WAN user as disclosed in the cited portions of Gray. The examiner disagrees. Gray clearly teaches at page 4, paragraph [0035], lines 2-4 in the passage: "WAN user 52 requesting positions and/or directions (location means) to one or more nearby WLAN access points 24."

The applicant argues on page 7, third paragraph that Gray discloses in paragraph [0035] that "steps 1 and 2 can alternatively involve WAN user 52 requesting the WLAN bandwidth on demand service from its WAN network provider", paragraph [0035] does involve a "request", such request is clearly for a WLAN bandwidth on demand service and not a location of a WLAN as recited in claims 1, 7 and 13. The examiner disagrees. In paragraph [0035], Gray clearly discloses "step 1 and 2 can alternatively involve WAN user 52 requesting positions and/or directions (location means) to one or more nearby WLAN access points 24."

The applicant argues with new claim 19 on page 8, seventh paragraph that Gray does not teach or suggest "wherein the request includes a user-selected distance or

distance range from a wireless service area of the wireless network to said location of said wireless local area network WLAN". Hussa in view of Gray does teach the limitation as recited in claim 19 (see Office action, section 6 below).

### ***Claim Objections***

2. Claims 14-18 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 14-18 are dependent from claim 15. The claims 14-18 should depend on independent claim 13.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-18 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by H. Gray (US 2004/0203873).

For claim 1, H. Gray discloses method and system of informing WAN user of nearby WLAN access point, comprising:

transmitting a request to a wireless service provider of a wireless network for a location of a wireless local area network (WLAN) (figure 5, page 4, paragraph [0035],

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lines 2-4); and

receiving from said wireless service provider said location of said wireless local area network (WLAN)(figure 5, reference step 6, page 4, paragraph [0039], lines 1-4).

For claim 2, H. Gray discloses further comprising after said step of transmitting said wireless service provider determining a wireless service area from which said transmitting originated (page 4, paragraph [0037], lines 1-16).

For claim 3, H. Gray discloses further comprising after said step of determining said wireless service provider obtaining said location of said wireless local area network WLAN based on said wireless service area (page 4, paragraph [0038], lines 2-9).

For claim 4, H. Gray discloses wherein said wireless network is a cellular telephone network (figure1, reference 10, page 2, paragraph [0020], line 1).

For claim 5, H. Gray discloses wherein said request for a location of a wireless local area network WLAN comprises requesting a location of a wireless local area network WLAN relative to a specific location (page 4, paragraph [0035], lines 2-4).

For claim 6, Hsu discloses wherein said location of said wireless local area network WLAN comprises one of a street address, a map location, longitude and latitude coordinates, and global positioning coordinates (page 5, paragraph [0043], lines 6-8).

For claim 7, H. Gray discloses method and system of informing WAN user of nearby WLAN access point, comprising:

a wireless transceiver for transmitting and receiving communication over a wireless network (figure 6, references 183 and 186, page 4, paragraph [0041], lines 12-

13); and

a controller for processing a request over said wireless network for a location of a wireless local area network WLAN and processing receiving over said wireless network said location of said wireless local area network WLAN (figure 6, reference 180, page 4, paragraph [0041], lines 1-6).

For claim 8, H. Gray discloses further comprising wireless baseband circuitry and WLAN baseband circuitry (page 4, paragraph [0041], lines 7-26).

For claim 9, H. Gray discloses wherein controller processes said request for said location of said wireless local area network WLAN based on a user provided location (page 4, paragraph [0040], lines 9-20).

For claim 10, H. Gray discloses wherein said controller processes said receiving of said location of said wireless local area network WLAN by displaying said location as one of a street address, map coordinates, longitude and latitude, and global positioning coordinates (page 5, paragraph [0043], lines 2-8).

For claim 11, H. Gray discloses wherein said wireless transceiver and said controller are within a cellular communication device (page 4, paragraph [0041], lines 7-13).

For claim 12, H. Gray discloses wherein said wireless network is a cellular telephone network (figure 1, reference 10, page 2, paragraph [0020], line 1).

For claim 13, H. Gray discloses method and system of informing WAN user of nearby WLAN access point, comprising:

a wireless network for providing wireless communication services over a wireless

service area (page 2, paragraph [0023]), and

a mobile device for sending a request from said wireless service area across said wireless network for a location of a wireless local area network WLAN (figure 5, reference steps 1-3, page 4, paragraph [0035], lines 2-4), paragraph [0036], lines 2-4).

For claim 14, H. Gray discloses wherein said location of said wireless local area network WLAN is based on a location of said wireless service area (page 4, paragraph [0037], lines 1-16).

For claim 15, H. Gray discloses wherein said location of said WLAN comprises one of a street address, map coordinates, latitude and longitude, and global positioning coordinates (page 5, paragraph [0043], lines 2-8).

For claim 16, H. Gray discloses wherein said wireless network comprises a cellular telephone network (figure 1, reference 10, page 2, paragraph [0020], line 1).

For claim 17, H. Gray discloses wherein said mobile device comprises a cellular telephone (page 4, paragraph [0040], line 17).

For claim 18, H. Gray discloses wherein said mobile device comprises processing for receiving said location of said wireless local area network WLAN (figure 5, reference step 6, page 4, paragraph [0039], lines 1-4).

For claim 20, H. Gray discloses wherein the request for the location of the wireless local area network (WLAN) is transmitted by a mobile device (page 4, paragraph [0035], lines 2-4).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over H. Gray (US 2004/0203873) in view of Husa (US 2004/0156372).

For claim 19, H. Gray does not expressly disclose wherein the request includes a user-selected distance or distance range from a wireless service area of the wireless network to said location of said wireless local area network WLAN. In an analogous art, Husa discloses wherein the request includes a user-selected distance or distance range from a wireless service area of the wireless network to said location of said wireless local area network WLAN (page 3, paragraph [0029], lines 6-12, and paragraph [0032], lines 2-6).

One skilled in the art would have recognized the wherein the request includes a user-selected distance or distance range from a wireless service area of the wireless network to said location of said wireless local area network WLAN, and would have applied Husa's selection criteria in H. Gray's WAN user 52 requesting positions and/or directions to one or more nearby WLAN access points 24. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Husa's access point service for mobile users in H. Gray's method and system of informing WAN user of nearby WLAN access point with the motivation being to provide



the user request the access points within a certain distance from his or her current location (page 3, paragraph [0032], lines 2-4).

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **TOAN D. NGUYEN** whose telephone number is (571)272-3153. The examiner can normally be reached on M-F (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. D. N./

Examiner, Art Unit 2416

/William Trost/

Supervisory Patent Examiner, Art Unit 2416